

STATEMENT OF PURPOSE

RS19250

This is one of a series of bills that the Supreme Court has recommended in its annual report to the Governor concerning defects or omissions in the laws, as required under article V, section 25 of the Idaho Constitution. Idaho Code § 11-101 states that a party in whose favor judgment was given may have a writ of execution issued "subject to the right of the court to stay execution as herein provided." The second paragraph then makes references to stays of execution pending motions for new trial pursuant to Idaho Code § 10-602, for judgment notwithstanding a verdict pursuant to Idaho Code §§ 10-224 and 10-602, and for relief from a judgment or order pursuant to Idaho Code § 5-905. All of the statutes referenced in the second paragraph were repealed in 1975. The subject of such motions for stays is now addressed in Rule 62(b) of the Idaho Rules of Civil Procedure. This bill would remove the obsolete second paragraph of the statute. The first paragraph would be amended to state that the issuance of writs of execution is subject to the right of the court to stay execution as provided by rules adopted by the Supreme Court.

FISCAL NOTE

This bill would have no impact on the general fund.

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